

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

ALERTONE SERVICE, INC.,	)	Case No.: 1:25-cv-0493 JLT CDB
	)	
Plaintiff,	)	ORDER ADOPTING IN FULL THE FINDINGS
	)	AND RECOMMENDATIONS, DISMISSING THE
v.	)	ACTION WITHOUT PREJUDICE, AND
	)	DIRECTING THE CLERK OF COURT TO CLOSE
RQ CONSTRUCTION, LLC,	)	THIS CASE
	)	
Defendants.	)	(Doc. 6)
	)	

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Alertone Service, Inc., initiated this action by filing a complaint on April 28, 2025. (Doc. 1.) After Plaintiff failed to serve the summons and complaint on the defendant—or file proof of service as such—the Court ordered Plaintiff to show cause why the action should not be dismissed. (Doc. 4.) Plaintiff failed to respond to the Court’s order.

The magistrate judge found Plaintiff failed to prosecute this action and failed to comply with the Court’s orders. (Doc. 6 at 1-2.) In addition, the magistrate judge determined Plaintiff failed to comply with Rule 4(m) of the Federal Rules of Civil Procedure, which requires service within 90 days. (*Id.* at 2.) The magistrate judge determined terminating sanctions are appropriate after considering the factors identified by the Ninth Circuit in *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988), and recommended the Court dismiss the action “without prejudice for Plaintiff’s failure to prosecute this action, failure to comply with the Court’s orders, and failure to comply with Rule 4(m), Fed. R. Civ. P.” (*Id.* at 3-4.)

1 The Court served the Findings and Recommendations on Plaintiff, including a notice that any  
2 objections were due within 14 days. (Doc. 6 at 4.) The Court advised Plaintiff that the “failure to file  
3 objections within the specified time may result in the waiver of rights on appeal.” (*Id.* at 4-5, citing  
4 *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file objections, and the  
5 time to do so has passed.

6 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case. Having  
7 carefully reviewed the matter, the Court concludes the Findings and Recommendations are supported  
8 by the record and proper analysis. Thus, the Court **ORDERS**:

- 9 1. The Findings and Recommendations dated September 4, 2025 (Doc. 6) are **ADOPTED**  
10 in full.
- 11 2. The action is **DISMISSED** without prejudice, for failure to comply with the Federal  
12 Rules of Civil Procedure, failure to prosecute, and failure to comply with the Court’s  
13 orders.
- 14 3. The Clerk of Court is directed to close this case.

15  
16 IT IS SO ORDERED.

17 Dated: **September 20, 2025**

  
UNITED STATES DISTRICT JUDGE